

DECLARATION OF MARK W. STUBBINS

My Declaration is given in accordance with, and is permitted by, 28 U.S.C.

I, the undersigned, declare the following:

1.

I am currently employed with Agility Consulting Services, Aspect Telecommunications, as an interactive voice response, (IVR) systems programmer.

2.

I have known Mr. M. Kelly Jones for over fifteen years. I first met Kelly in [REDACTED] when Kelly first moved to [REDACTED] where I lived. We lived within a block of each other in different apartment complexes. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

3.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

4.

On or around [REDACTED], Kelly mentioned his idea regarding an advance notification system that would notify passengers, in advance, of the impending arrival of a vehicle at a



particular location, particularly, in the context of a school buses, pickup services, and delivery services. He even showed me a drawing that he had prepared relating to an advance notification system as applied to school buses. The drawing showed school buses with each school bus having a global positioning system (GPS) receiver and a cellular telephone. The drawing further illustrated cellular telephone calls being made from the cellular telephones to the homes of school children to notify children, in advance, of the impending arrival of buses at bus stops. After that point, during our conversations, we discussed many specific implementations and options of the advance notification system, and in the context of its application to a school bus system, we referred to it as the "BusCall" system.

5.

On or around [REDACTED], Kelly and I discussed and defined the functionality of at least two advance notification system implementations. In one implementation, a location tracking device, for example, a vehicle odometer or a global positioning system (GPS) receiver, which communicates with GPS satellites, would be used on each vehicle for determining the precise location of each vehicle in real time. Each vehicle would also have a transmitter or transceiver, such as an RF transmitter, RF transceiver, cellular telephone, *etc.*, which would be used to contact the passengers at their houses when the vehicle was a predetermined time period or distance from a stop location. A computer or microprocessor based unit on each vehicle would be used to control the foregoing communication devices. In another implementation, we discussed the idea of implementing a base station computer that would communicate with the electronic systems (having a tracking device and an RF or cellular transceiver) on the vehicles and that would make land-line telephone calls to the user's/passenger's homes, instead of having the systems on the vehicles make the telephone calls. We also discussed how this configuration could be

implemented by enhancing an existing vehicle tracking system. Furthermore, we thought that the latter implementation (with the base station computer) was more practical in that it would be technologically difficult to have each vehicle system make all of the necessary cellular telephone calls to the homes.

6.

On or around [REDACTED], Kelly and I both visited Radio Shack on several occasions to find parts and/or components to build an advance notification system. We thought about taking Kelly's laptop and using it as a controller in a mobile unit for use on a vehicle. We did buy some parts.

7.

On or around [REDACTED], Kelly thought of and described to me the possibility of using a distinctive ring in the homes of call recipients so that the call recipients would not need to pick up the telephone and would know from the distinctive ring itself that a vehicle was approaching a stop, i.e., was within a predetermined time period or distance from the stop or at a certain predefined location.

8.

On or around [REDACTED], on occasion while or after playing tennis with Kelly Jones, we discussed, in confidence, the advance notification system with some of our closest friends, including [REDACTED]. We were trying to raise money to start a business to exploit the technology.

9.

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
10.

[REDACTED]
[REDACTED]
[REDACTED]
11.

Near the end of [REDACTED], Kelly Jones told me that Edwin Fernandez introduced him to Mr. John Ross. Kelly felt that Ross could raise money for the company because Ross was an investment banker with Peachstate Equities, Atlanta, Georgia.

12.

I met with Kelly and Mr. John Ross on two occasions at Scalini's Restaurant in [REDACTED], sometime at the end of [REDACTED]. We met with Mr. Ross for the sole purpose of having him help us raise money for the new proposed company. Kelly and I had previously discussed using the name "World Wide Notification Systems" for the company, and we discussed this with Ross. We discussed the advance notification system in detail. Mr. Ross's only involvement was his "finding capital" for starting a company to exploit the technology. He had no substantive input on the ideas or concepts associated with the advance notification system. The advance notification system was conceived of and its design was well defined in both system implementations, long before Mr. Ross was involved. I have recently been made aware that Mr. Ross has sought and obtained several U.S. patents that involve and are directed to an advance notification system. How Ross can make any patent claims to such a system is absolutely amazing to me.

13.

After a few months, Kelly and I began to realize that Ross was not the man to raise money for us. Because Ross didn't raise any money after a few months and it didn't appear that he would be effective at raising any money at all in the future for World Wide Notification Systems, we broke off all ties with Ross.

14.

[REDACTED]

15.

Near the end of [REDACTED], we consulted a patent attorney about protecting the concepts associated with the advance notification system. On May 18, 1993, a patent application was filed with the U.S. Patent & Trademark Office. I was listed as a co-inventor on the application along with Kelly Jones and Gena Payne. The application covered the implementation having the base station for making land-line telephone calls to users/subscribers, as this was a more practical and workable approach, as compared to the approach where cellular telephone calls were made from the system on the vehicles directly to the user's/subscriber's homes. I have been advised that this application issued as U.S. Patent No. 5,400,020 on March 21, 1995.

16.

[REDACTED]

17.

I have been advised that the following patent claim 1 exists in U.S. Patent No. 5,648,770 issued to Ross:

An apparatus located on a mobile vehicle providing separate notices to each of a plurality of parties of a pending delivery/pickup of a different item, each said item being uniquely associated with one of said parties, said apparatus comprising:

a satellite receiver for receiving positioning signals from a plurality of satellites;

a storage device for storing the location of each said party;

a processor electrically connected to said storage device and said satellite receiver, said processor programmed to perform the following steps for each said item:

a) determining a current location of the mobile vehicle based upon the received positioning signals;

b) selecting an item;

c) comparing the current location of the mobile vehicle to the location of the party associated with said selected item;

a communicator operating under control of the processor for automatically communicating, based upon a step of comparing, a signal via a cellular communications network from the mobile vehicle to each said party to notify each said party of the pending delivery/pickup of the item uniquely associated with that party.

Based upon my understanding of this claim language, I believe that Kelly and I jointly (Kelly primarily) invented this "apparatus" on or around [REDACTED] and disclosed all of the elements/features in claim 11 to Ross on or around late [REDACTED], before Ross thought about or knew anything about this "apparatus." In other words, Ross did not invent what is claimed here in claim 11 of U.S. Patent No. 5,648,770.

18.

I have been advised that the following patent claim 11 resides in U.S. Patent No.

5,444,444 issued to Ross:

11. An apparatus located on a mobile vehicle for providing a notice to a party of pending delivery/pickup of an item, said apparatus comprising:

a satellite receiver for receiving positioning signals from a plurality of satellites;

a storage device for storing a location of a delivery/pickup point of the item;

a controller electrically connected to said storage device and said satellite receiver, said controller programmed to perform the steps of:

a) determining a current location of the mobile vehicle based upon the received positioning signals;

b) comparing the current location of the mobile vehicle to the location of the delivery/pickup point;

c) estimating the time required for the vehicle to travel from its current location to the location of the delivery/pickup point based on the distance separating the location of the vehicle and the location of the delivery/pickup point and the time for any intervening stops;

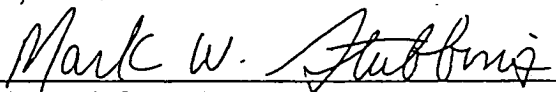
a communicator operatively connected to the controller for communicating a signal via a cellular communications network from the mobile vehicle to said party to notify the party of the pending delivery/pickup of the item if the estimated time interval is less than a predetermined time interval.

Based upon my understanding of this claim language, I truly believe that Kelly and I jointly (Kelly primarily) invented this "apparatus" on or around [REDACTED] and disclosed all of the elements and features in claim 11 to Ross on or around late [REDACTED], before Ross thought about or knew anything about this claimed "apparatus." In other words, Ross did not invent what is claimed here in claim 11 of U.S. Patent No. 5,444,444.

19.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 26 day of September, 1998.


Mark W. Stubbins